

Exhibit No.:
Issue(s):
Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

Rate Case Expense
Robertson/Rebuttal
Public Counsel
ER-2011-0028

REBUTTAL TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC COMPANY D/B/A AMERENUE

Case No. ER-2011-0028

** ** Denotes “Highly Confidential” Information that has been redacted

March 25, 2011

NP

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company)
d/b/a AmerenUE's Tariff to Increase Its)
Annual Revenues for Electric Service)

Case No. ER-2011-0028

AFFIDAVIT OF TED ROBERTSON

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am Chief Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

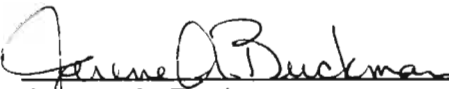


Ted Robertson, C.P.A.
Chief Public Utility Accountant

Subscribed and sworn to me this 25th day of March 2011.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037



Jerene A. Buckman
Notary Public

My Commission expires August 23, 2013.

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**REBUTTAL TESTIMONY
OF
TED ROBERTSON**

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**UNION ELECTRIC COMPANY
d/b/a AmerenUE**

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CASE NO. ER-2011-0028

10

I. INTRODUCTION

11 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

12 A. Ted Robertson, PO Box 2230, Jefferson City, Missouri 65102-2230.

13
14 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

15 A. I am employed by the Missouri Office of the Public Counsel (OPC or Public
16 Counsel) as the Chief Public Utility Accountant.

17
18 Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES AT THE OPC?

19 A. My duties include all activities associated with the supervision and operation of
20 the regulatory accounting section of the OPC. I am also responsible for
21 performing audits and examinations of the books and records of public utilities
22 operating within the state of Missouri.

23
24 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER
25 QUALIFICATIONS.

26 A. I graduated in May, 1988, from Missouri State University in Springfield, Missouri,
27 with a Bachelor of Science Degree in Accounting. In November of 1988, I

1 passed the Uniform Certified Public Accountant Examination, and I obtained
2 Certified Public Accountant (CPA) certification from the state of Missouri in 1989.
3 My CPA license number is 2004012798.
4

5 Q. HAVE YOU RECEIVED SPECIALIZED TRAINING RELATED TO PUBLIC
6 UTILITY ACCOUNTING?

7 A. Yes. In addition to being employed by the Missouri Office of the Public Counsel
8 since July 1990, I have attended the NARUC Annual Regulatory Studies
9 Program at Michigan State University, and I have also participated in numerous
10 training seminars relating to this specific area of accounting study.
11

12 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC
13 SERVICE COMMISSION (COMMISSION OR MPSC)?

14 A. Yes, I have testified on numerous issues before this Commission. Please refer
15 to Schedule TJR-1, attached to this testimony, for a listing of cases in which I
16 have submitted testimony.
17

18 **II. PURPOSE OF TESTIMONY**

19 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

20 A. I am sponsoring the Public Counsel's position regarding AmerenUE (Ameren or
21 Company) ratemaking treatment of rate case expense.

1 **III. RATE CASE EXPENSE**

2 Q. WHAT IS THE ISSUE?

3 A. The issue is how to determine the proper amount of rate case expense Company
4 should be authorized to include in the development of future rates.

5
6 Q. PLEASE SUMMARIZE THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE.

7 A. Public Counsel's position is that the amount of rate case expense, included in the
8 development of Company's rates, should only include a normalized annual level of
9 charges that directly benefit ratepayers. Since shareholders benefit from the
10 activities from which these charges derive much more than ratepayers do,
11 shareholders should cover some of the charges.

12
13 Q. WHAT IS THE TEST YEAR AMOUNT OF RATE CASE EXPENSE COMPANY
14 INCURRED TO PROCESS THE INSTANT CASE?

15 A. For the Commission ordered test year, twelve months ended March 31, 2010, the
16 balance booked is \$0 (source: MPSC Staff Data Request No. 206). However,
17 Company workpaper GSW-WP-E448 provided to support the direct filing identifies
18 an estimate of \$2,050,000 to process the case.

19

1 Q WHAT IS THE AMOUNT OF RATE CASE EXPENSE COMPANY INCURRED TO
2 PROCESS THE INSTANT CASE THROUGH THE COMMISSION ORDERED
3 TRUE-UP DATE?

4 A. Company's response to OPC Data Request No. 1009 identifies costs incurred
5 through December 2010 are **

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7
8 ** The total cost booked is

9 ** **

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11 Q. DO THE COSTS SHOWN IN OPC DATA REQUEST NO. 1009 RECONCILE TO
12 THE COSTS SHOWN IN MPSC STAFF DATA REQUEST NO. 206?

13 A. No. Company's February 15, 2011 update to MPSC Staff DR No. 206 identified
14 costs incurred through December 2010 as approximately \$461,149; however, the
15 response did not identify any of the labor costs booked in USOA Account 920 and
16 the costs booked in USOA Account 928 differ by approximately ** ** due to
17 some labor costs also not shown in the response to MPSC Staff Data Request No.
18 206.

19
20 Q. DOES PUBLIC COUNSEL EXPECT THAT COMPANY WILL INCUR ADDITIONAL
21 RATE CASE CHARGES SUBSEQUENT TO DECEMBER 2010?

1 A. Yes. I expect that the Company will update its responses to OPC Data Request
2 Nos. 1000 and 1009, and MPSC Data Request Nos. 206 and 212 at least through
3 the February 28, 2011 authorized true-up date as the information becomes
4 available.

5
6 Q. DID THE COMPANY BOOK ANY RATE CASE EXPENSE COSTS DURING THE
7 INSTANT CASE TEST YEAR?

8 A. Yes. Company workpaper GSW-WP-E448 provided to support the direct filing
9 identifies that approximately \$1,577,000 associated with its prior two general rate
10 increase cases was booked during the test year.

11
12 Q. DOES THE PUBLIC COUNSEL BELIEVE THAT THE ESTIMATED, TEST YEAR
13 OR TRUE-UP BALANCES REPRESENT A REASONABLE LEVEL OF RATE
14 CASE EXPENSE FOR INCLUSION IN THE DEVELOPMENT OF FUTURE RATES?

15 A. No.

16
17 Q. WHAT COSTS ASSOCIATED WITH GENERAL RATE INCREASE CASES
18 SHOULD BE RECOVERED FROM RATEPAYERS?

19 A. Costs associated with general rate increase cases should first be analyzed to
20 determine if they are prudent, reasonable and necessary. Those that are
21 determined not prudent, reasonable or necessary should not be reimbursed by

1 ratepayers. For example, costs incurred by Company personnel, outside legal and
2 outside consultants that are determined imprudent, unreasonable or unnecessary
3 should be automatically disallowed. In addition, if the utility has employees capable
4 of developing and supporting the general rate increase case, the cost of hiring of
5 higher-priced outside legal or consultants should not be allowed either. Once the
6 prudent, reasonable and necessary costs of the specific case are determined, the
7 balance should then be split evenly between shareholders and ratepayers as they
8 represent charges associated with activities that primarily benefit shareholders. The
9 portion allocated to ratepayers can then be included in the development of future
10 rates by normalizing the cost commensurate with the Company's average general
11 rate case history.

12
13 Q. DOES THE PUBLIC COUNSEL BELIEVE THAT THE COSTS ASSOCIATED
14 WITH THE CURRENT GENERAL RATE INCREASE CASE SHOULD BE
15 UTILIZED TO DEVELOP THE NORMALIZED AMOUNT OF RATE CASE
16 EXPENSE TO INCLUDE IN THE DETERMINATION OF FUTURE RATES?

17 A. Yes. On a going forward basis, Public Counsel believes that the costs incurred in
18 the instant case should be utilized to determined the annual level of rate case
19 expense to include in the determination of rates since they represent the most
20 recent actual costs one can expect the utility to incur.

21

1 Q. HOW DO SHAREHOLDERS AND RATEPAYERS BENEFIT FROM THE
2 ACTIVITIES ASSOCIATED WITH GENERAL RATE INCREASE CASES?

3 A. Customers have an interest in ensuring that they receive service that is safe and
4 adequate, at rates that are just and reasonable. The Commission's decision in a
5 rate case should: 1) establish rates that are just and reasonable; 2) allow the
6 utility enough revenue to continue to provide safe and adequate service; and 3)
7 allow the utility the opportunity to make a fair profit. A utility in a rate case has no
8 incentive to present a "bare bones" minimum revenue requirement; rather it will
9 present a case that enhances, to the greatest extent plausible, its ability to earn a
10 profit for its shareholders. In fact, the utility has a fiduciary duty to act this way.
11 It is inequitable, and produces rates that are not just and reasonable, to require
12 ratepayers to pay the utility's costs of seeking a rate increase greater than the
13 minimum revenue requirement. Over the last five years, Ameren Missouri has
14 sought rate increases that are in the aggregate approximately double what the
15 Commission has found to be just and reasonable. The Commission should
16 therefore find that at least half of the cost of prosecuting the rate case should be
17 borne by shareholders.

18
19 Q. IS PUBLIC COUNSEL TAKING A NARROW VIEW THAT RATE CASES THAT
20 RESULT IN RATE INCREASES ONLY BENEFIT THE UTILITY'S
21 SHAREHOLDERS BY INCREASING EARNINGS?

1 A. No. The need for a base rate filing is initiated by the utility and driven by its
2 desire to obtain an increase in rates, but an authorized revenue requirement
3 merely gives the utility an opportunity to earn a return on its investments. Other
4 benefits that result include the ability to provide safe, adequate and proper utility
5 service.

6
7 Q. HAVE YOU REVIEWED COMPANY'S ESTIMATED COSTS TO DEVELOP AND
8 PROCESS THE INSTANT CASE?

9 A. Yes. Schedule GSW-WP-E448 attached to Company's workpapers supporting its
10 direct filing contains a listing that shows an estimated \$2,050,000 may be
11 expended to process the instant case. The breakdown of the costs is as follows:

12

13	1.	Smith Lewis (Jim Lowery & Staff)	\$600,000
14	2.	Brydon Swearngen & England	200,000
15	3.	Fisher & Dority (Jim Fischer)	60,000
16	4.	ROE Expert	150,000
17	5.	Lead/Lag and Revenue Requirement (Concentric	90,000
18	5.	Taum Sauk Support	100,000
19	6.	Depreciation Rebuttal (Gannett Fleming)	25,000
20	7.	Connie Murray	30,000
21	8.	Brattle Group	25,000
22	9.	Rebuttal Witnesses	600,000
23	10.	Witness Training and Preparation	75,000
24	11.	Outside Clerical Support	50,000
25	12.	Public Hearings	10,000
26	13.	Travel Expenses	<u>35,000</u>
27		Total	\$2,050,000

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1 Q. WERE REQUESTS FOR PROPOSALS UTILIZED TO OBTAIN THE SERVICES
2 OF THE AFOREMENTIONED OUTSIDE CONSULTANTS?

3 A. No. Company's response to MPSC Staff Data Request No. 36 states that **
4 ** . However, the response does state that, regarding the **

5 **, **

6 ** .

7
8 Q. WHAT WERE THE OUTSIDE ATTORNEYS AND CONSULTANTS HIRED TO
9 DO?

10 A. Company's response to OPC Data Request No. 1008, which requested a
11 detailed explanation of what services are to be provided by each, states:

- 12
13 1. Brattle Group: Provide research, testimony review and
14 policy development.
15
16 2. Mike Adams-Concentric: Develop Lead-Lag Study, prepare
17 cash working capital testimony, provide research and other
18 revenue requirement assistance.
19
20 3. Connie Murray: Provide testimony review and policy
21 development.
22
23 4. Robert B. Hevert-Concentric: Develop ROR
24 recommendations and prepare testimony on ROE.
25
26 5. John Weidmayer-Gannett Fleming: Has not been engaged
27 at this time.
28

1 A. Yes. Company's response to MPSC Staff Data Request No. 206 lists charges for
2 these outside consultants too.

3
4 Q. IS PUBLIC COUNSEL CONCERNED ABOUT THE LARGE EXPENDITURES
5 COMPANY EXPECTS TO INCUR FOR PROCESSING THE CURRENT
6 GENERAL RATE INCREASE CASE?

7 A. Yes. Public Counsel has become increasingly concerned with the rising level of
8 rate case expense among utilities in general. For example, the outside legal
9 representation and consultants Company hired are extremely costly and
10 represent the majority of the costs of Company's rate case expense estimate;
11 however, all of these costs are properly within management's control. As a
12 result, rate case expense, like any other expenditure, is an area where utilities
13 should seek to contain costs.

14
15 Q. DOES PUBLIC COUNSEL BELIEVE THAT OUTSIDE LEGAL AND CONSULTANT
16 COSTS HAVE BECOME EXCESSIVE AND THAT THE COMPANY HAS NO
17 INCENTIVE TO CONTROL THESE COSTS?

18 A. Yes. The use of costly outsiders to process and defend the rate increase request
19 is particularly disconcerting when one considers that Company is a large utility
20 with approximately ** ** employees (source: OPC DR No. 1002). Many
21 of these employees hold degrees from colleges and universities which likely

1 match or exceed the educational requirements needed to prepare and defend a
2 general rate increase case - not to mention their combined work experience and
3 acquired skills. These employees should be able to perform most, if not all, of
4 the work required. Furthermore, Companies should be made aware that a "pass-
5 through" of rate case expense is not automatic and the Commission should
6 certainly review the expenses for prudence, reasonableness and necessity to
7 ensure that they are not improper or excessive. Especially in today's economic
8 climate.

9
10 Q. IS IT YOUR BELIEF THAT SPECIFIC RATE CASE COSTS ARE NOT BEING
11 PRUDENTLY INCURRED BY THE COMPANY?

12 A. Yes. OPC believes that the Company has not attempted to appropriately control
13 the costs it has incurred for the current case. Company's needless use of
14 outside legal and consultant services indicates such.

15
16 Q. DID OPC REQUEST EMPLOYEE INFORMATION REGARDING AMERENUE?

17 A. Yes. OPC Data Request No. 1002 requested a listing of current AmerenUE
18 employees with university/college degrees. The request included the employee's
19 name, current job title, years employed with Company, degree held and major
20 field of study (e.g., Bachelors of Accounting, Masters of Engineering, PHD

1 Education, etc.), name of university/college from which degree was earned, and
2 a listing of any advanced profession designations held (e.g., CPA, etc.).
3

4 Q. DID THE COMPANY PROVIDE IN ITS RESPONSE THE INFORMATION OPC
5 REQUESTED IN ITS DATA REQUEST NO. 1002?

6 A. The Company response to OPC Data Request No. 1002 provided information for
7 AmerenUE. However, the information was provided subject to the following
8 qualifications:

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26 Q. WHAT DID YOUR ANALYSIS OF THE RESPONSE TO OPC DATA REQUEST
27 NO. 1002 REVEAL?

1 A. The response to OPC Data Request No. 1002, which pertains only to AmerenUE
2 employees, identified ** ** employees as holders of a university/college
3 Bachelor or higher degree (of which ** ** held a single degree and **
4 ** held multiple and/or advanced degrees) of which ** ** held a Bachelor
5 degree, ** ** held a Master degree, ** ** held a Doctorate, and ** **
6 held a Juris Doctor degree. It also identified the number of degrees awarded in
7 the various disciplines as, accounting ** **, business ** **, Economics
8 ** **, engineering or related ** **, finance ** **, law/legal
9 enforcement/legal studies ** **, management ** **, mathematics **
10 **, political science ** **, public administration ** **, along with numerous
11 other degrees in different areas of study. Furthermore, approximately ** **
12 employees held associate degrees, and many of the above and other employees
13 held either licenses and/or professional designations associated with their
14 particular areas expertise.

15
16 Q. WHAT IS THE AVERAGE YEARS OF SERVICE BASED ON ALL EMPLOYEES
17 LISTED IN THE RESPONSE TO OPC DATA REQUEST NO. 1002

18 A. Approximately ** ** years.

19
20 Q. DID OPC ALSO REQUEST EMPLOYEE INFORMATION REGARDING
21 AMEREN CORPORATION AND ITS OTHER AFFILIATES?

1 A. Yes. OPC Data Request No. 1003 requested a listing of current Ameren Corp
2 and affiliate employees (e.g., Ameren Services) with university/college degrees
3 that allocate time/costs to AmerenUE. The request included the employee's
4 name, current job title, years employed with Ameren Corp/affiliate, degree held
5 and major field of study (e.g., Bachelors of Accounting, Masters of Engineering,
6 PHD Education, etc.), name of university/college from which degree was earned,
7 and a listing of any advanced profession designations held (e.g., CPA, etc.).
8

9 Q. DID THE COMPANY PROVIDE IN ITS RESPONSE THE INFORMATION OPC
10 REQUESTED IN ITS DATA REQUEST NO. 1003?

11 A. The Company response to OPC Data Request No. 1003 provided information
12 only for Ameren Services employees even though the request was for Ameren
13 Corp and all its affiliates. Further, the Ameren Services information was provided
14 subject to the following qualifications:
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Q. WHAT DID YOUR ANALYSIS OF THE RESPONSE TO OPC DATA REQUEST NO. 1003 REVEAL?

A. The response to OPC Data Request No. 1003, which only provided Ameren Services employees even though the request was for Ameren Corp and all its affiliates, identified ** employees as holders of a university/college Bachelor or higher degree (** held a single degree and ** held multiple and/or advanced degrees) of which ** held a Bachelor degree, ** held a Master degree, ** held a Doctorate, and ** held a Juris Doctor degree. It also identified the number of degrees awarded in the various disciplines of study as, accounting **, business **, Economics **, engineering or related **, finance **, law/legal enforcement/legal studies **, management **, mathematics **, political science **, meteorology **, along with numerous other degrees in different areas of study. Furthermore, approximately ** employees held associate degrees and many of the above and other employees held either licenses and/or professional designations associated with their particular areas expertise. There were also ** employees listed as Certified Public Accountants.

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Q. WHAT IS THE AVERAGE YEARS OF SERVICE BASED ON ALL EMPLOYEES LISTED IN THE RESPONSE TO OPC DATA REQUEST NO. 1003

A. Approximately ** ** years.

Q. HOW DID OPC UTILIZE THE INFORMATION PROVIDED?

A. As stated by the Company, the response to OPC Data Request Nos. 1002 and 1003 provided, for the employees listed, educational attainments, licensing, certificate and professional designation information. Public Counsel reviewed the information and segregated the employees based on their identified educational attainments so as to determine if it is likely that Company employees would be able to utilize their skill set to assist the utility in its rate case endeavors rather than hiring outside consultants.

Q. IS IT PUBLIC COUNSEL'S BELIEF THAT COMPANY COULD HAVE DEVELOPED AND PROCESSED THE CURRENT CASE WITH IT'S OWN AND/OR AFFILIATES EMPLOYEES WITHOUT THE NEED TO INCUR THE COSTS OF OUTSIDE ATTORNEYS AND CONSULTANTS?

A. Yes. Company and/or its affiliates have among their employees a large number of accountants, engineers and others that presumably could have been utilized to prepare, file and defend its rate increase request. However, Company chose to

1 go outside its employee base by hiring three (3) outside legal firms and ten (10)
2 outside consultants to develop and present significant portions of its case. Public
3 Counsel believes that the in-house resources should have been expanded to
4 include legal and other activities for as much of the rate case work as possible
5 before resorting to the hiring of outside attorneys and consultants.
6

7 Q. DOES COMPANY, ITS PARENT OR AFFILIATES EMPLOY ANY LICENSED
8 ATTORNEYS?

9 A. Yes. Company's response to OPC Data Request No. 1006 identified seventeen
10 (17) licensed attorneys employed (whereas Company's response to OPC Data
11 Request Nos. 1002 and 1003 identified **

12
13 **). Of the seventeen listed, nine (9) have regulatory
14 experience. Those with regulatory experience include, William B. Bobnar,
15 Thomas M. Byrne, Edward C. Fitzhenry, David B. Hennen, Susan B. Knowles,
16 Joseph H. Raybuck, Steven R. Sullivan, Wendy K. Tatro and Matt R. Tomc.
17

18 Q. DOES COMPANY, ITS PARENT OR AFFILIATES EMPLOY ANYONE WITH
19 COST OF CAPITAL (ROE, CAPITAL STRUCTURE, DEBT COST, ETC.)
20 EXPERIENCE?

1 A. Yes. Company's response to OPC Data Request No. 1007 lists three (3)
2 employees with such experience. They include, Jerre E. Birdsong, Vice
3 President & Treasurer - Risk Management, Michael G. O'Bryan, Sr. Capital
4 Markets Specialist and Ryan J. Martin, Assistant Treasurer & Manager -
5 Corporate Finance.

6
7 Q. DID PUBLIC COUNSEL ATTEMPT TO ASCERTAIN THE LEVEL OF
8 EXPERIENCE THAT MSSRS. BIRDSONG, O'BRYAN AND MARTIN HAVE
9 REGARDING COST OF CAPTIAL ISSUES?

10 A. Yes. OPC Data Request No. 1007 also requested Company to identify
11 proceedings in which they testified along with a request for copies of all
12 testimony they presented in those proceedings; however, Company failed to
13 produce the information.

14
15 Q. DOES PUBLIC COUNSEL BELIEVE THAT COMPANY HAS THE PROPER
16 INCENTIVE TO CONTROL THE LEVEL OF EXPENDITURES IT IS INCURRING
17 FOR THE CURRENT GENERAL RATE INCREASE CASE?

18 A. No. Company's management apparently believes that because it decides to
19 incur outside legal and outside consultant costs in processing its request for a
20 rate increase, those expenditures should be considered and authorized as an
21 automatic recovery from ratepayers. Public Counsel believes that rationale is

1 neither appropriate or reasonable. It is not appropriate because the idea itself
2 results in monopolistic inefficiencies which lead to higher rates than should have
3 actually occurred. The utility should always be actively seeking to reduce its cost
4 structure so that ratepayers do not end up paying higher rates than absolutely
5 necessary, but the indiscriminate incurrence of excessive expenditures runs
6 counter to that goal. Also, it is not reasonable due to the fact that if the
7 expenditures are to be incurred they must be done so with the understanding that
8 they are the most cost-effective alternative and that their incurrence will be
9 scrutinized thoroughly so as to avoid the payment of improper or unreasonable
10 charges. Company's view that it can spend whatever it desires to process its
11 rate increase request, because the expenditures are an entitlement subject to
12 automatic recovery, provides no incentive for the controlling of the costs.

13
14 Q. SHOULD REASONABLE AND NECESSARY EXPENDITURES TO PREPARE
15 AND PRESENT A RATE CASE BE ALLOWED IN THE DETERMINATION OF
16 FUTURE RATES RECOVERED FROM RATEPAYERS?

17 A. Yes; however, ratepayers should be held accountable only for a proportionate share
18 of such expenditures since both ratepayers and shareholders benefit from their
19 incurrence. If the costs incurred are determined to be prudent, reasonable and
20 necessary, both ratepayers and shareholders should be held responsible for their
21 payment since both parties benefit from these expenditures.

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Q. SHOULD THE COMMISSION SUBSTITUTE ITS JUDGMENT FOR THAT OF THE COMPANY'S MANAGEMENT IN CHOOSING WHICH RATE CASE EXPENSES TO INCUR?

A. No. The Commission should not seek to substitute its judgment – or that of any intervenor – for the Company's in determining which employee, consultant or legal counsel is best suited to serve the Company's interests; however, the need to contain rate case expense should be accorded a high priority for rate case work. In seeking recovery of rate case expense, regulated utilities must provide adequate justification that their choice to use the services of outsiders to develop and process the case is both reasonable and cost-effective. A regulated utility that seeks to recover rate case expense when it has not properly evaluated its options is not something ratepayers should have to underwrite. Recovery should not be automatic, and it should not be allowed in full if a utility seeks more than a reasonable rate case.

Q. SHOULD THE COMMISSION DETER COMPANY FROM SEEKING NECESSARY ASSISTANCE TO DEVELOP AND IMPLEMENT ITS GENERAL RATE INCREASE CASE?

A. No. The Commission should not deter Company from seeking necessary assistance in preparing, supporting and implementing a general rate increase

1 case. However, AmerenUE currently has approximately ** ** employees
2 whose wages and benefits are treated as operating expenses and paid by its
3 customers. Public Counsel believes it probable that a greater number of these
4 employees could have been utilized to prepare and defend the Company's
5 current request for a rate increase.

6
7 Presumably, some of Company's and/or its affiliates employees have sufficient
8 expertise and familiarity with utility operations and regulation to enable them to
9 assist in the preparation of a general rate increase case and then support their
10 findings before the Commission; thus, Company should be able to prepare and
11 implement a general rate increase case without the need of making large
12 expenditures for outside legal or consultants. Company should be advised that
13 in order for the expense of outside legal or consultants to be considered
14 allowable rate case expenses, they must be incurred in the most efficient and
15 prudent manner possible.

16
17 Q. SHOULD CONSUMERS BE FORCED TO PAY FOR ELABORATE DEFENSES
18 OF PRIVATE INTEREST?

19 A. No. Costs incurred by Company to present and defend positions on expense
20 recovery and investment return which only benefit shareholders should not be
21 recovered from ratepayers.

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Q. WHAT DOES PUBLIC COUNSEL BELIEVE CONSTITUTES AN ELABORATE DEFENSE?

A. Elaborate defense, as used here, consists of Company's hiring of outside legal and consultant services to support its rate case when it is very likely its own and/or affiliate personnel could have done the job just as well and perhaps more effectively.

Q. SHOULD RATEPAYERS BE AFFORDED EVERY OPPORTUNITY TO SAVE MONEY THROUGH REDUCED COSTS AND EFFICIENT SERVICE?

A. Yes. Since utility ratepayers are a captive population, the utility should use all means possible to ensure that ratepayers receive safe and efficient service at the most reasonable and efficient cost possible.

Q. DOES THE COMPANY'S USE OF OUTSIDE CONSULTANTS TO SUPPORT ITS RATE CASE FILING YIELD EFFICIENT SERVICE AT A REASONABLE COST?

A. No. Company and its affiliates likely have sufficient personnel and resources to process a general rate increase case in this State; however, Company did not fully utilize those personnel and resources. For example, there are a number of attorneys employed by AmerenUE and/or its affiliates that have regulatory experience; however, instead of the utilizing knowledge and skills of those

1 employees to present its case, the Company chose instead to hire at least three (3)
2 outside firms to handle legal aspects of the case. Public Counsel believes that to be
3 an inefficient use of Company resources. The same goes for Company's utilization
4 of outside consultants for various accounting and economic activities associated
5 with the current case. Utilization of its own and/or affiliate employees would have
6 likely provided services in a more cost-effective manner.
7

8 Q. DOES PUBLIC COUNSEL BELIEVE THAT SHAREHOLDERS SHOULD CARRY
9 AN EQUAL PROPORTION OF THE COST OF THIS RATE CASE FOR WHICH
10 THEY TOO RECEIVE A BENEFIT?

11 A. Yes. Benefits that inure to ratepayers from a utility rate case are at least matched (if
12 not exceeded) by benefits enjoyed by the shareholders of the same utility.
13 Therefore, utilities should be vigilant in controlling their rate case expenses so that
14 owners and customers are not unduly burdened by the incurrence of unnecessary
15 or inefficient costs.
16

17 Q. DOES SHAREHOLDER PAYMENT OF A PORTION OF THE RATE CASE
18 EXPENDITURES CONSTITUTE AN UN-EQUITABLE FORFEITURE?

19 A. Not in my opinion. Since the shareholders stand to gain from the opportunity to
20 earn any increase in revenue requirement authorized by the Commission, they
21 too benefit from the costs incurred to proceed with the case. It stands to reason

1 that if the authorized revenue requirement exceeds the case costs they expend,
2 they have a net benefit; thus, there is no un-equitable forfeiture.

3
4 Q. DOES THE PUBLIC COUNSEL BELIEVE THAT THE COMMISSION SHOULD
5 DISCOURAGE UTILITIES FROM HIRING OUTSIDE LEGAL COUNSEL OR
6 CONSULTANTS TO SUPPORT THEIR POSITIONS?

7 A. No. It is not the Commission's place to micro-manage the utility; however, neither
8 should the Commission automatically allow the utility to "pass-through" the charges
9 for the expenditures simply because the Company's management chose to incur
10 the costs.

11
12 Q. ARE RATE CASE COSTS OUTSIDE THE CONTROL OF MANAGEMENT?

13 A. No. There is a certain amount of "embedded costs" inherent in any general rate
14 increase case; however, most of the costs are not outside of the Company's
15 control. For example, the Company chooses the employees, attorneys and
16 consultants it wants to present its case. The Company then chooses how they
17 are going to comply with discovery and what efforts, if any, they will make to
18 facilitate and economize the process. Furthermore, the Company dictates what
19 measures it will make to mitigate rate case expense by choosing which positions
20 it favors and seeks to pursue or not pursue within the case.

1 Q. JUST BECAUSE THE COMPANY CHOOSES TO INCUR CERTAIN
2 EXPENDITURES SHOULD THE COMMISSION ASSUME THAT THE COSTS
3 ARE PRUDENT, REASONABLE AND NECESSARY?

4 A. No. Even though there are certain costs inherent in the Commission's process,
5 the costs should still be prudent, reasonable and necessary. The Commission
6 should not assume that just because the utility expended the time and cost its
7 rate case expenditures should be automatically recoverable from ratepayers. In
8 fact, a large portion of the Company's rate case expense in the current case is
9 not prudent, reasonable or necessary.

10
11 Public Counsel believes that it is incumbent on the Company to mitigate its rate
12 case expense because the Company alone has chosen to initiate and process
13 the rate increase request. Moreover, if the Company decides to engage in
14 conduct that increases rate case expense, it is the Company that has the burden
15 of establishing the amount incurred and showing that it is prudent, reasonable
16 and necessary. The Commission is obligated to consider competing policies of
17 what expenses should be considered in ratemaking decisions including rate case
18 expense. Therefore, in establishing rates, the Commission is required to balance
19 the public need for adequate, efficient, and reasonable service with the utility's
20 need for sufficient revenue to meet the cost of furnishing service and earning a
21 reasonable return on investment.

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Company apparently expects the Commission to take its word that the costs it expects to incur are prudent, reasonable and necessary. That is not a reasonable position because rate case expenditures involve a high degree of management choice and discretion over whether or not to incur each expenditure. The Commission should look past Company's simplistic position and base its decision on whether or not each expenditure was prudent, reasonably and necessary.

Q. DO YOU PROPOSE TO DISALLOW ALL COMPANY'S RATE CASE EXPENSE?

A. No. Public Counsel recommends that the Commission recognize that rate case expenses benefit both Company and ratepayers; thus, shareholders should also be held responsible for a portion of the costs related to the burden. Because rate proceedings are a part of the normal course of business for a regulated utility and because rate proceedings, by establishing just and reasonable rates, are conducted for the benefit of both ratepayers and shareholders, it is widely accepted that rate case expenses are one aspect of a utility's operating costs and are recoverable in a general rate increase proceeding. However, because shareholders and ratepayers both benefit, a policy of requiring only ratepayers to pay the costs is not reasonable.

1 In general, if costs incurred by a utility to prepare and present a rate case are
2 prudent, reasonable and necessary they should be properly recoverable from
3 both shareholders and ratepayers. The ratepayer's portion should be treated as
4 an ordinary and reasonable cost of doing business.

5
6 The Commission should also note that the amount estimated to be expended by
7 Company in this general rate increase case (i.e., approximately \$2,050,000)
8 should be considered excessive for a utility which applies for rate increases
9 relatively frequently, understands the regulatory process, has personnel on its
10 staff who are now or were previously directly involved in the regulatory process,
11 and is litigating essentially the same issues as those litigated in its last several
12 general rate increase cases.

13
14 Q. WHAT IS THE AMOUNT OF RATE CASE EXPENSE YOU ARE
15 RECOMMENDING COMPANY BE AUTHORIZED TO RECOVER FROM
16 RATEPAYERS?

17 A. Company has not fully identified or incurred its rate case expense for the current
18 case so an exact amount recommendation is not yet available; however, Public
19 Counsel recommends that once all rate case expense of the current case
20 becomes known and measurable, the Commission authorize Company to
21 recover 50% of its in-house (total costs excluding outside attorneys and outside

1 consultants charges). For example, based on the known and measurable in-
2 house costs incurred to date (as identified in OPC Data Request No. 1009),
3 Company has booked approximately ** of labor and miscellaneous
4 charges so Public Counsel would recommend that 50% or approximately **
5 ** be recovered from ratepayers over a normalized period.
6

7 Public Counsel's recommendation is based on the belief that Company bears the
8 burden of proof in these proceedings and it must establish that any expenditure it
9 incurs is prudent, reasonable and necessary. In Public Counsel's opinion, that
10 has not occurred for the costs incurred related to the outside legal and outside
11 consultants employed. Public Counsel believes that the Commission should
12 disallow all costs Company incurs associated with the outside legal and outside
13 consultants hired to develop and process the current case for two reasons, 1) it is
14 likely the Company and/or affiliates employees could have developed and
15 processed the case without the need for hiring outside attorneys and outside
16 consultants, and 2) ratepayers should not be forced to pay for elaborate
17 defenses of private interests.
18

19 Q. WHY DOES PUBLIC COUNSEL BELIEVE THAT A 50%/50% SHARING OF THE
20 COSTS IS APPROPRIATE?

1 A. Public Counsel believes that the question of who benefits from the incurrence of
2 the costs is an important consideration to consider. A general rate increase case
3 arises for the benefit of a utility's shareholders due to the fact that a primary
4 motivator in filing a rate case is to add shareholder value by increasing rates.
5 Whereas, ratepayers benefit from the service and operational aspects that result.
6 Since rate case expense is a complex problem in that both shareholders and
7 ratepayers benefit from a general rate increase proceeding - both should be held
8 responsible for recovery of the incurred costs that are prudent, reasonable and
9 necessary. Thus, Public Counsel believes that prudent, reasonable and
10 necessary expenses resulting from the rate case should be shared 50%/50%
11 between shareholders and ratepayers so that each bears some of the burden for
12 the benefits they receive.

13
14 Q. IS THERE USUALLY A NEED TO NORMALIZE THE ANNUALIZED RATE
15 CASE EXPENSE AUTHORIZED BY THE COMMISSION?

16 A. Yes. Since utilities do not normally file a rate increase request on a yearly basis,
17 the costs that they incur to process the activity should be recovered over a period
18 of years representative of how often the utility's rates are actually changed from
19 one case to another. The costs should be normalized (averaged) over that
20 period of time necessary to complete the cycle for the activity. However,
21 Company is somewhat unique in that the authorized rate changes it has been

1 permitted from Case No. ER-2007-0002 through to the current case (assuming
2 the current case approximate effective law date) averages around sixteen (16)
3 months.

4
5 Q. DOES PUBLIC COUNSEL RECOMMEND A SPECIFIC NORMALIZATION
6 PERIOD?

7 A. Yes. I have reviewed the frequency of occurrence for Company's general rate
8 increase filings and Commission authorized change in rates for cases ER-2007-
9 0002, ER-2008-0318, ER-2010-0036 and the effective law date of the current
10 case and Public Counsel recommends that, for this rate case, the Commission
11 authorized rate case expense should be normalized for a one and one-third (1
12 1/3) year cycle of rate case rate change occurrences. Thus, I recommend that a
13 one and one-third (1 1/3) year normalization of the costs is the most appropriate
14 amount to include in the cost of service as the annualized amount of rate case
15 expense.

16
17 The addition of one-third (1/3) of a year to the normalization recommendation
18 may appear nonsensical and immaterial, but the actual cost impact of not
19 authorizing the addition could potentially allow Company to recover thousands of
20 dollars to which it is not entitled from ratepayers.

21

1 Q. DO YOU PROPOSE THE INCLUSION IN YOUR NORMALIZED LEVEL OF RATE
2 CASE EXPENSE ANY OTHER COSTS ASSOCIATED WITH ANY PRIOR
3 GENERAL RATE INCREASE CASE?

4 A. No. Public Counsel's recommendation includes only rate case expenses
5 associated with the current rate increase request be authorized for recovery in rates
6 on a going forward basis. To include rate case expenses incurred for previous
7 general rate increase cases would defeat the concept and practical application of a
8 normalization adjustment - not to mention provide Company with a guaranteed
9 recovery of the prior period costs, rather than just "the opportunity to earn" as
10 provided for in regulatory theory and practice.

11

12 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

13 A. Yes, it does.

**CASE PARTICIPATION
OF
TED ROBERTSON**

<u>Company Name</u>	<u>Case No.</u>
Missouri Public Service Company	GR-90-198
United Telephone Company of Missouri	TR-90-273
Choctaw Telephone Company	TR-91-86
Missouri Cities Water Company	WR-91-172
United Cities Gas Company	GR-91-249
St. Louis County Water Company	WR-91-361
Missouri Cities Water Company	WR-92-207
Imperial Utility Corporation	SR-92-290
Expanded Calling Scopes	TO-92-306
United Cities Gas Company	GR-93-47
Missouri Public Service Company	GR-93-172
Southwestern Bell Telephone Company	TO-93-192
Missouri-American Water Company	WR-93-212
Southwestern Bell Telephone Company	TC-93-224
Imperial Utility Corporation	SR-94-16
St. Joseph Light & Power Company	ER-94-163
Raytown Water Company	WR-94-211
Capital City Water Company	WR-94-297
Raytown Water Company	WR-94-300
St. Louis County Water Company	WR-95-145
United Cities Gas Company	GR-95-160
Missouri-American Water Company	WR-95-205
Laclede Gas Company	GR-96-193
Imperial Utility Corporation	SC-96-427
Missouri Gas Energy	GR-96-285
Union Electric Company	EO-96-14
Union Electric Company	EM-96-149
Missouri-American Water Company	WR-97-237
St. Louis County Water Company	WR-97-382
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GR-98-374
United Water Missouri Inc.	WR-99-326
Laclede Gas Company	GR-99-315
Missouri Gas Energy	GO-99-258
Missouri-American Water Company	WM-2000-222
Atmos Energy Corporation	WM-2000-312
UtiliCorp/St. Joseph Merger	EM-2000-292
UtiliCorp/Empire Merger	EM-2000-369
Union Electric Company	GR-2000-512
St. Louis County Water Company	WR-2000-844
Missouri Gas Energy	GR-2001-292
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company	EC-2002-1
Empire District Electric Company	ER-2002-424

**CASE PARTICIPATION
OF
TED ROBERTSON**

<u>Company Name</u>	<u>Case No.</u>
Missouri Gas Energy	GM-2003-0238
Aquila Inc.	EF-2003-0465
Aquila Inc.	ER-2004-0034
Empire District Electric Company	ER-2004-0570
Aquila Inc.	EO-2005-0156
Aquila, Inc.	ER-2005-0436
Hickory Hills Water & Sewer Company	WR-2006-0250
Empire District Electric Company	ER-2006-0315
Central Jefferson County Utilities	WC-2007-0038
Missouri Gas Energy	GR-2006-0422
Central Jefferson County Utilities	SO-2007-0071
Aquila, Inc.	ER-2007-0004
Laclede Gas Company	GR-2007-0208
Kansas City Power & Light Company	ER-2007-0291
Missouri Gas Utility, Inc.	GR-2008-0060
Empire District Electric Company	ER-2008-0093
Missouri Gas Energy	GU-2007-0480
Stoddard County Sewer Company	SO-2008-0289
Missouri-American Water Company	WR-2008-0311
Union Electric Company	ER-2008-0318
Aquila, Inc., d/b/a KCPL GMOC	ER-2009-0090
Missouri Gas Energy	GR-2009-0355
Empire District Gas Company	GR-2009-0434
Lake Region Water & Sewer Company	SR-2010-0110
Lake Region Water & Sewer Company	WR-2010-0111
Missouri-American Water Company	WR-2010-0131
Kansas City Power & Light Company	ER-2010-0355
Kansas City Power & Light Company	ER-2010-0356
Timber Creek Sewer Company	SR-2010-0320
Empire District Electric Company	ER-2011-0004
Union Electric Company, d/b/a AmerenUE	ER-2011-0028